

AMENDED IN SENATE JULY 16, 2003

AMENDED IN ASSEMBLY APRIL 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 153

Introduced by Assembly Member Calderon
(Coauthor: Assembly Member Firebaugh)

January 21, 2003

An act to amend Sections 68130.5 and 76300 of, and to add Section 66021.6 to, the Education Code, relating to student financial aid.

LEGISLATIVE COUNSEL'S DIGEST

AB 153, as amended, Calderon. Student financial aid: eligibility.

(1) Existing law requires that a person, other than a nonimmigrant alien as defined, who has attended high school in California for 3 or more years, who has graduated from a California high school or attained the equivalent thereof, who has registered at or attends an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year, and who, if he or she is an alien without lawful immigration status, has filed a prescribed affidavit, is exempted from paying nonresident tuition at the California Community Colleges and the California State University.

Existing law, known as the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education. Provisions of the act apply to the University of California only to the extent that the Regents of the

University of California, by appropriate resolution, act to make a provision applicable.

This bill would require the Trustees of the California State University and the Board of Governors of the California Community Colleges, and would request the Regents of the University of California, to establish procedures and forms that enable persons who are exempt from paying nonresident tuition under the provision described above, or who meet equivalent requirements adopted by the regents, to apply for, and participate in, all student aid programs administered by these segments to the full extent permitted by federal law. This provision would apply to the University of California only if the regents, by appropriate resolution, act to make it applicable.

The bill would also provide that persons meeting these requirements, or who meet equivalent requirements adopted by the Regents of the University of California, are eligible to apply for, and participate in, any student financial aid program administered by the State of California to the full extent permitted by federal law. The bill would provide, however, that no person would qualify for financial aid under this provision unless and until all persons who meet the criteria of the provision can be provided with financial aid eligibility in a manner consistent with federal law.

(2) Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction, for prescribed fees, at community college campuses throughout the state. Existing law authorizes the waiver of these fees for, among others, students who are eligible under income standards established by the board of governors.

This bill would ~~provide~~ *require* that persons who are exempt from nonresident tuition under the provision described in (1) above ~~may~~ receive the fee waiver under this provision.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:



1 (a) ~~These~~ *Some* students cannot apply for financial aid in the
2 traditional manner, through completion of the Free Application for
3 Federal Student Aid (FAFSA), because they do not have ~~social~~
4 ~~security numbers~~ *the legal immigration status necessary for*
5 *federal processing of the application.*

6 (b) Section 66021.6 of the Education Code, as added by
7 Section 2 of this act, does not grant these pupils any advantage over
8 the student population as a whole in determining who qualifies for,
9 or receives, financial aid.

10 (c) Increased access to financial aid for all students in
11 California's universities and colleges increases the state's
12 collective productivity and economic growth.

13 (d) Undocumented aliens who are exempt from nonresident
14 tuition pursuant to Section 68130.5 of the Education Code are in
15 a unique situation due to their residency status, and therefore they
16 require increased attention so they may fulfill their academic
17 goals.

18 SEC. 2. Section 66021.6 is added to the Education Code, to
19 read:

20 66021.6. Notwithstanding any other provision of law, the
21 Trustees of the California State University and the Board of
22 Governors of the California Community Colleges shall, and the
23 Regents of the University of California are requested to, establish
24 procedures and forms that enable persons who are exempt from
25 paying nonresident tuition under Section 68130.5, or who meet
26 equivalent requirements adopted by the regents, to apply for, and
27 participate in, all student aid programs administered by these
28 segments to the full extent permitted by federal law.

29 SEC. 3. Section 68130.5 of the Education Code is amended
30 to read:

31 68130.5. Notwithstanding any other provision of law:

32 (a) A student, other than a nonimmigrant alien within the
33 meaning of paragraph (15) of subsection (a) of Section 1101 of
34 Title 8 of the United States Code, who meets all of the following
35 requirements shall be exempt from paying nonresident tuition at
36 the California State University and the California Community
37 Colleges:

38 (1) High school attendance in California for three or more
39 years.

1 (2) Graduation from a California high school or attainment of
2 the equivalent thereof.

3 (3) Registration as an entering student at, or current enrollment
4 at, an accredited institution of higher education in California not
5 earlier than the fall semester or quarter of the 2001–02 academic
6 year.

7 (4) In the case of a person without lawful immigration status,
8 the filing of an affidavit with the institution of higher education
9 stating that the student has filed an application to legalize his or her
10 immigration status, or will file an application as soon as he or she
11 is eligible to do so.

12 (b) A student exempt from nonresident tuition under this
13 section may be reported by a community college district as a
14 full-time equivalent student for apportionment purposes.

15 (c) The Board of Governors of the California Community
16 Colleges and the Trustees of the California State University shall
17 prescribe rules and regulations for the implementation of this
18 section.

19 (d) Student information obtained in the implementation of this
20 section is confidential.

21 (e) (1) A person who meets the requirements of this section, or
22 who meets equivalent requirements adopted by the Regents of the
23 University of California, is eligible to apply for, and participate in,
24 any student financial aid program administered by the State of
25 California to the full extent permitted by federal law.

26 (2) Notwithstanding paragraph (1), no person shall qualify for
27 financial aid under this section unless and until all persons who
28 meet the criteria of this section can be provided with financial aid
29 eligibility in a manner consistent with federal law.

30 SEC. 4. Section 76300 of the Education Code is amended to
31 read:

32 76300. (a) The governing board of each community college
33 district shall charge each student a fee pursuant to this section.

34 (b) (1) The fee prescribed by this section shall be eleven
35 dollars (\$11) per unit per semester.

36 (2) The chancellor shall proportionately adjust the amount of
37 the fee for term lengths based upon a quarter system and also shall
38 proportionately adjust the amount of the fee for summer sessions,
39 intersessions, and other short-term courses. In making these

1 adjustments, the chancellor may round the per unit fee and the per
2 term or per session fee to the nearest dollar.

3 (c) For the purposes of computing apportionments to
4 community college districts pursuant to Section 84750, the
5 chancellor shall subtract, from the total revenue owed to each
6 district, 98 percent of the revenues received by districts from
7 charging a fee pursuant to this section.

8 (d) The chancellor shall reduce apportionments by up to 10
9 percent to any district that does not collect the fees prescribed by
10 this section.

11 (e) The fee requirement does not apply to any of the following:

12 (1) Students enrolled in the noncredit courses designated by
13 Section 84757.

14 (2) California State University or University of California
15 students enrolled in remedial classes provided by a community
16 college district on a campus of the University of California or a
17 campus of the California State University, for whom the district
18 claims an attendance apportionment pursuant to an agreement
19 between the district and the California State University or the
20 University of California.

21 (3) Students enrolled in credit contract education courses
22 pursuant to Section 78021, if the entire cost of the course,
23 including administrative costs, is paid by the public or private
24 agency, corporation, or association with which the district is
25 contracting and if these students are not included in the calculation
26 of the full-time equivalent students (FTES) of that district.

27 (f) The governing board of a community college district may
28 exempt special part-time students admitted pursuant to Section
29 76001 from the fee requirement.

30 (g) (1) The fee requirements of this section shall be waived
31 for any student who, at the time of enrollment, is a recipient of
32 benefits under the Temporary Assistance to Needy Families
33 program, the Supplemental Security Income/State Supplementary
34 Program, or a general assistance program or has demonstrated
35 financial need in accordance with the methodology set forth in
36 federal law or regulation for determining the expected family
37 contribution of students seeking financial aid.

38 (2) The governing board of a community college district also
39 shall waive the fee requirements of this section for any student who

1 demonstrates eligibility according to income standards established
2 by the board of governors.

3 (h) The fee requirements of this section shall be waived for any
4 student who, at the time of enrollment, is a dependent, or surviving
5 spouse who has not remarried, of any member of the California
6 National Guard who, in the line of duty and while in the active
7 service of the state, was killed, died of a disability resulting from
8 an event that occurred while in the active service of the state, or is
9 permanently disabled as a result of an event that occurred while in
10 the active service of the state. "Active service of the state," for the
11 purposes of this subdivision, refers to a member of the California
12 National Guard activated pursuant to Section 146 of the Military
13 and Veterans Code.

14 (i) The fee requirements of this section shall be waived for any
15 student who is the surviving spouse or the child, natural or
16 adopted, of a deceased person who met all of the requirements of
17 Section 68120.

18 (j) The fee requirements of this section shall be waived for any
19 student in an undergraduate program, including a student who has
20 previously graduated from another undergraduate or graduate
21 program, who is the dependent of any individual killed in the
22 September 11, 2001, terrorist attacks on the World Trade Center
23 and Pentagon, or the crash of United Airlines Flight 93 in
24 southwestern Pennsylvania, if that dependent meets the financial
25 need requirements set forth in Section 69432.7 for the Cal Grant
26 A Program and either of the following apply:

27 (1) The dependent was a resident of California on September
28 11, 2001.

29 (2) The individual killed in the attacks was a resident of
30 California on September 11, 2001.

31 (k) A determination of whether a person is a resident of
32 California on September 11, 2001, for purposes of subdivision (j)
33 shall be based on the criteria set forth in Chapter 1 (commencing
34 with Section 68000) of Part 41 for determining nonresident and
35 resident tuition.

36 (l) (1) "Dependent," for purposes of subdivision (j), is a
37 person who, because of his or her relationship to an individual
38 killed as a result of injuries sustained during the terrorist attacks
39 of September 11, 2001, qualifies for compensation under the

federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under subdivision (j) until that person obtains the age of 30 years.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation and Government Claims Board, is also entitled to the waivers provided in this section until January 1, 2013.

(m) (1) It is the intent of the Legislature that sufficient funds be provided to support the provision of a fee waiver for every student who demonstrates eligibility pursuant to subdivisions (g) to (j), inclusive.

(2) From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to 2 percent of the fees waived pursuant to subdivisions (g) to (j), inclusive. From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to ninety-one cents (\$0.91) per credit unit waived pursuant to subdivisions (g) to (j), inclusive, for determination of financial need and delivery of student financial aid services, on the basis of the number of students for whom fees are waived. Funds allocated to a community college district for determination of financial need and delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 1992–93 fiscal year.

(n) A person who is exempt from paying nonresident tuition under Section 68130.5, and who otherwise qualifies for a waiver under this section, ~~may receive the waiver~~ *shall receive the waiver. The Legislature finds and declares that this subdivision is a state law within the meaning of subsection (d) of Section 1621 of Title 8 of the United States Code.*

1 (o) The board of governors shall adopt regulations
2 implementing this section.

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